

REMARKS

Upon entry of the present amendment, claims 1, 5, 8, 12 and 16 will have been amended claims 7 and 17 will have been canceled without prejudice or disclaimer, and claims 21-22 will have been added. Claims 1-3, 5, 8-9, 12-16 and 19-22 remain pending in the application for consideration by the Examiner. Applicant notes that dependent claims 5 and 16 have been to conform to the changes made to the respective independent claims from which they depend, and claim 8 has been amended to depend from a non-canceled claim.

In view of the hereincontained remarks, Applicant respectfully requests reconsideration and withdrawal of each of the outstanding rejections set forth in the above-mentioned Official Action. Such action is respectfully requested and is now believed to be appropriate.

In the outstanding Official Action, the Examiner has rejected all pending claims under 35 U.S.C. § 103(a) as being unpatentable over OUCHI (U.S. Published Application No. 2002/0123667) in view of RYDELL (U.S. Patent No. 5,035,696) and further in view of RYDELL (U.S. Patent No. 5,258,006) and WEBSTER (U.S. Patent No. 5,827,278).

Applicant respectfully traverses each of the above rejections, and notes that, without agreeing to the propriety of the Examiner's rejection and solely to expedite the patent examination process, independent claims 1 and 12 have been amended to generally include the limitations of respective dependent claims 7 and 17 and to recite that a plane defined by the pair of conductive wires is different from a plane defined by the opening and closing motion of the pair of electrodes (and claims 7 and 17 have been canceled without prejudice or disclaimer). Applicant notes that support for the present amendment may be found, *inter alia*, in Figs. 2 and 4. Applicant further expressly incorporates all arguments proffered in Applicant's previous responses.

Applicant notes that in OUCHI the plane defined by the pair of conductive wires is the same as the plane defined by opening and closing motion of the pair of electrodes, as shown in Fig. 2 of OUCHI. Applicant further notes that in the other applied references, namely RYDELL '696, RYDELL '006 and WEBSTER, there is no disclosure, either alone or together in any proper combination, of a pair of conductive wires and a pair of opening and closing electrodes, as recited in independent claims 1 and 12.

Therefore, the applied references, when taken alone or in any proper combination, fail to teach or suggest the claimed opening and closing electrodes, wherein the plane defined by the pair of conductive wires is different from a plane defined by the opening and closing motion of the pair of electrodes, as generally recited in each of claims 1 and 12. Thus, Applicant submits that independent claims 1 and 12, as well as the claims dependent therefrom, are patentable over the references of record.

With respect to rejected dependent claims 2-3, 5, 6-9, 13-16 and 19-20, since these claims (as well as newly-added claims 21-22) are dependent from one of allowable independent claims 1 and 12, which are allowable for at least the reasons discussed *supra*, these dependent claims are also allowable for at least these reasons. Further, all dependent claims recite additional features which further define the present invention over the references of record. For example, Applicant notes that newly-added dependent claims 21-22 each recite that the pair of conductive wires cross each other in the region where they are coupled to the pair of electrodes (support for which can be found, *inter alia*, in Fig. 2). To the contrary, Applicant notes that in OUCHI (which the Examiner has relied upon for the teachings of a pair of electrodes and conductive wires), the pair of conductive wires do not cross each other in the region where they are coupled to the pair of electrodes. Applicant again further notes that in the other applied references there

is no disclosure, either alone or together in any proper combination, of a pair of conductive wires and a pair of opening and closing electrodes.

It is thus respectfully submitted that all pending claims are patentable over the references of record. Applicant thus respectfully requests reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. § 103(a), and an early indication of the allowance of all pending claims.

Accordingly, for each of the above reasons, and certainly for all of the above reasons, it is respectfully submitted that Applicant's claims are clearly patentable over the combinations of references relied upon by the Examiner. An action to such effect is respectfully requested, in due course.

Applicant notes that the status of the present application is after final rejection and that once a final rejection has issued, an Applicant does not have a right to amend an application. Nevertheless, in the present situation, Applicant respectfully submits that entry of the present amendment is appropriate and proper and in full compliance with 37 C.F.R. § 1.116. In this regard, Applicant notes that he is merely clarifying a previously expressed feature of Applicant's invention to more clearly emphasize the distinctions between the Examiner's combination and the present invention. Accordingly, Applicant respectfully submits that the present amendment raises no issues requiring further consideration or search and thus should be entered by the Examiner.

SUMMARY AND CONCLUSION

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he has now done so. Applicant has amended the claims to more clearly emphasize the distinction between the present invention and the disclosures of the references relied upon by the Examiner. Applicant has additionally canceled several dependent claims.

Applicant has discussed the references relied upon by the Examiner and has pointed out the shortcomings thereof with respect to the features of Applicant's invention. Applicant has also discussed the recitations of the claims and noted the shortcomings of the combination of references asserted by the Examiner thereagainst. Applicant has additionally pointed out the lack of obviousness and motivation for the proposed combination. Accordingly, Applicant has provided a clear evidentiary basis supporting the patentability of all the claims in the present application and respectfully requests an indication to such effect, in due course.


Applicant notes that this amendment is being made to advance prosecution of the application to allowance, should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejection is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art (*e.g.*, in order to conform dependent claims to the changes made to independent claims from which they depend or to depend from non-canceled claims), should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should an extension of time be necessary to maintain the pendency of this application, including any extensions of time required to place the application in condition for allowance by an Examiner's Amendment, the Commissioner is hereby authorized to charge any additional fee to Deposit Account No. 19-0089.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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